Remarks/Arguments

Applicants would like to thank the Examiner for the careful consideration given the present application. The application has been carefully reviewed in light of the Office action, and amended as necessary to more clearly and particularly describe the subject matter that applicants regard as the invention.

Claims 11-22 have been newly added herein. No new matter has been entered.

Claims 1, 5/1, 6/5/1, and 7/6/5/1 were rejected under 35 U.S.C. 102(b) as being anticipated by Umazume (US 3,760,761). Traversal of this rejection is made for at least the following reasons. Umazume does not disclose a float, as required by claim 1 of the present invention. A float is a buoyant body, or a body lighter than a surrounding liquid medium. In contrast, Umazume is directed to a kite, which has no intrinsic buoyancy and sinks unless it is towed by a ship. This is indicated by the excerpt in col. 3, lines 9-16, according to which the kite is lifted when it is drawn and the wing 6 may produce a sufficient force. The right hand portion of Figure 6 also shows that the kite remains under sea level when it is idle.

Moreover, claim 1 requires an upper portion extending upwards from the horizontal portion, wherein the upper portion is partly emerged from the water. In Umazume, the single portion of the kite that partly emerges when the kite is drawn is the wing 6 (col. 3, lines 27-49). The wing 6 does not extend upwards from the horizontal portion. Rather, the wing 6 is secured to an upper end of an upper pillar 7 (col. 2, lines 67-68) and extends obliquely. The transverse extension is important to Umazume because it produces the required lifting force.

Because Umazume does not disclose each and every element set forth in claim 1, Umazume does not anticipate claim 1 or claims 2-10, which depend therefrom. Withdrawal of this rejection is respectfully requested.

Claims 2, 5/2, 6/5/2, and 7/6/5/2 were rejected under 35 U.S.C. 103(a) as being unpatentable over Umazume (US 3,760,761) in view of Kirby et al. (US 4,729,333). Traversal of this rejection is made for at least the following reasons. The examiner concedes that Umazume does not disclose the upper portion rising at the rear of the horizontal portion and thus relies on Kirby et al. in an attempt to make up for the deficiencies of Umazume. However, it is respectfully submitted that there is no suggestion or motivation, either in the Umazume and/or

the Kirby et al. references or in the knowledge generally available to one of ordinary skill in the art, to modify the kite of Umazume in the manner suggested by the examiner. The examiner contends that it would have been obvious to one of ordinary skill in the art at the time the invention was made to form the upper portion of Umazume to rise at the rear of the horizontal portion for improved stability. Yet, there is no support or explanation of such a conclusion. It is not clear that the rearly mounted mast 52 of Kirby et al., which is completely emerged, improves stability. Nor is it clear that moving the wing 6 of Umazume to rise at the rear of a horizontal portion would improve stability. Thus, Kirby et al. cannot logically be combined with Umazume to produce the invention recited in claim 2. It is noted that "[t]he mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination." MPEP §2143. For at least the aforementioned reasons, withdrawal of this rejection is requested.

Claims 3, 4, 5/(3,4), 6/5/(3,4), and 7/6/5/(3,4) were rejected under 35 U.S.C. 103(a) as being unpatentable over Umazume (US 3,760,761) in view of Kirby et al. (US 4,729,333) as applied to claim 2 above, and further in view of Huffhines et al. (US 4,549,499). Traversal of this rejection is made for at least the following reasons. The examiner concedes that Umazume does not disclose the suspension line attached in front of the upper portion with a single articulation with a transversal axis. Accordingly, the examiner relies on Huffhines et al. in an attempt to make up for the deficiencies of Umazume. However, Huffhines et al. is related to a float devoid of an upper portion. There is nothing in the teachings of Huffhines et al. that would have suggested to one of ordinary skill in the art to make the modifications suggested by the examiner.

Moreover, it is submitted that there is no motivation or suggestion to combine the teachings of Umazume, Kirby et al. and Huffhines et al. Umazume is directed to a kite in which a three-dimensional position and attitude of the kite in the sea can be automatically controlled by self-contained component members; Kirby et al. is directed to a remotely controllable device capable of maintaining the lateral offset of a towed object within certain limits over a broad range of operating conditions; and Huffhines et al. is directed to a seismic pulse source towing system in which commercially available buoy is mounted on a V-shaped frame to reduce towing

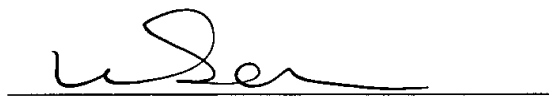
resistance, allow faster towing speeds, and permit additional acoustic pulse sources with their associated buoys. It appears that the examiner is using hindsight to selectively combine elements from Umazume, Kirby et al. and Huffhines et al. to arrive at the claimed invention. Thus, for at least the aforementioned reasons, withdrawal of this rejection is respectfully requested.

Claims 8-10 were objected to as having multiple dependent claims depending from another multiple dependent claim (5). Accordingly, claims 8-10 have been amended to remove the multiple dependencies.

In light of the foregoing, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 16-0820, our Order No. 34323.

Respectfully submitted,
PEARNE & GORDON LLP



Una L. Schumacher, Reg. No. 48,998

1801 East 9th Street
Suite 1200
Cleveland, Ohio 44114-3108
(216) 579-1700

Date: December 12, 2003